

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

QWEST COMMUNICATIONS  
CORPORATION,

Plaintiff,

v.

OLYMPIC PENINSULA DEVELOPMENT  
CO., LLC,

Defendant.

CASE NO. C07-5147RJB

ORDER GRANTING MOTION  
FOR ENTRY OF DEFAULT  
UNDER RULE 55

This matter comes before the Court on the plaintiff's Motion for Entry of Default Under Rule 55 (Dkt. 7). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file herein.

**I. BACKGROUND AND DISCUSSION**

On March 26, 2007, the plaintiff filed a complaint seeking a permanent injunction and alleging willful violation of RCW 19.122 and conversion. Dkt. 1. Counsel for the defendant has appeared but has not filed an answer.

The entry of default is governed by Federal Rule 55, which provides as follows: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule CR 55 requires that the

1 moving party provide notice to the defaulting party before moving for entry of default:

2 [I]n the case of a defaulting party who has entered an appearance, the moving party must  
3 give the defaulting party written notice of the requesting party's intention to move for the  
4 entry of default at least five judicial days prior to filing its motion and must provide  
5 evidence that such notice has been given in the motion for entry of default.

6 Local Rule CR 55(a).

7 The defendant was personally served in Washington with the summons and complaint on  
8 March 30, 2007. Dkt. 5. The answer was due twenty days thereafter, but none was filed. *See* Fed.  
9 R. Civ. P. 12(a). On April 20, 2007, counsel for the plaintiff provided written notice that the  
10 plaintiff would move for entry of default. Dkt. 8-2, Exh. A at 3. On April 30, 2007, counsel for  
11 the defendant notified the plaintiff's counsel that the defendant was obtaining new counsel. Dkt. 8  
12 at 2. The defendant having been properly informed that the plaintiff would seek entry of default  
13 and having failed to serve an answer within the time prescribed by the Federal Rules or otherwise  
14 defend in this matter, the motion for entry of default should be granted.

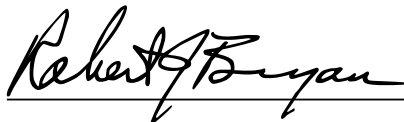
## 15 II. ORDER

16 Therefore, it is hereby

17 **ORDERED** that the plaintiff's Motion for Entry of Default under Rule 55 (Dkt. 7) is  
18 **GRANTED.**

19 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel  
20 of record and to any party appearing *pro se* at said party's last known address.

21 DATED this 8<sup>th</sup> day of May, 2007.

22 

23 ROBERT J. BRYAN  
24 United States District Judge